



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Monte W. Ausland - Proration of Real Estate Sales Expenses  
File: B-229368  
Date: September 20, 1988

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### DIGEST

Transferred employee sold 40-acre parcel of land which contained his residence in a sparsely populated, rural part of Montana. Proration of sales expense reimbursement is necessary due to income-producing potential of the excess land. Values contained in local tax assessment should be used in determining the percentage of proration where it is the best evidence of relative values available and it is shown to be more reliable than values shown in a real estate listing agreement.

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### DECISION

We have been asked by Ms. Joanne Henry, an authorized certifying officer of the Department of Energy, for a decision as to whether to certify for payment a voucher submitted by Mr. Monte W. Ausland, an employee of the Bonneville Power Administration, Department of Energy. Mr. Ausland submitted a voucher for the disallowed portion of expenses he incurred in the sale of his residence in connection with a permanent change of duty station.

The record shows that Mr. Ausland was transferred from Hot Springs, Montana, to Spokane, Washington, with a date for reporting to duty of October 14, 1985. Pursuant to his transfer, Mr. Ausland sold his 40-acre property in Lonepine, Montana, for \$70,000. The property consisted of a residence, a log barn, a chicken shed, a wood shed, a garage, and farmland. Upon sale, Mr. Ausland submitted a claim for reimbursement of expenses incurred in the sale.

Section 2-6.1 of the Federal Travel Regulations (FTR) governs the reimbursement of relocated employees' residence sale expenses. Paragraph f of that section provides that "[t]he employee shall . . . be limited to pro rata reimbursement when he/she sells or purchases land in excess

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of that which reasonably relates to the residence site." Having determined 35 acres of the 40-acre property to be excess land, the authorized certifying officer calculated the reimbursement on a pro rata basis. She allowed \$5,120.50 of the original \$7,000 claim, as representing the pro rata value of the house and non-excess land.

The pro rata reimbursement was based on house and property values written into the listing agreement Mr. Ausland had with his real estate agent. No formal appraisal of the property was made. Mr. Ausland subsequently submitted a reclaim voucher for the remaining \$1,879.50, questioning the necessity of proration, and further claiming that if proration is required, it should be based on the 1986 tax assessment values.

At the time of its determination the agency did not possess the 1986 tax assessment. Nevertheless, the certifying officer contends that the use of the tax assessment values is inappropriate because those values are far out of line with the eventual sales price. The tax assessment shows values of \$27,988 for the house and other improvements to the one-acre farmsite, \$3,000 for the one-acre farmstead, \$350 for 16 acres of wild hay, and \$34 for 23 acres of grazing land, for a total value of \$31,372. Therefore, the house and the one-acre combined farmsite and farmstead on which it is located make up approximately 99 percent of the total value of the property for tax assessment purposes.

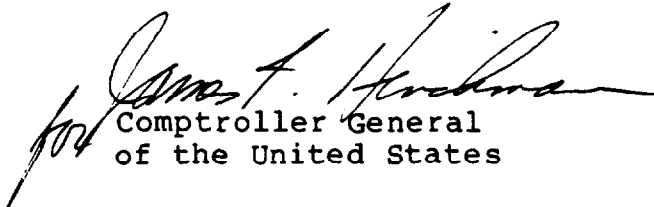
Necessity of proration for purposes of FTR paragraph 2-6.1(f) depends upon whether the land alleged to be excess is reasonably related to the residence. We have long recognized that such a determination should be based upon the prevailing and customary practices in the locality of the property. 54 Comp. Gen. 597 (1975). We listed, in that case, the factors to be considered in making the determination, though the list is not considered to be exhaustive. They include examination of local zoning laws, opinions of local real estate experts, the character of the land as it relates to local conditions, and any income-producing potential the land has.

In this case, Mr. Ausland's property was located in a wide-open, rural area. There are no local zoning regulations in what is a sparsely populated area made up of very large parcels of farmland. Two local real estate experts wrote letters stating that 40 acres is quite a small parcel for the area and that most range in size from 160 acres to 2,000 acres. Their opinions are that nearly all the value of the property is attributable to the home and improvements. Still, both experts do agree that while the income-producing

potential of the land is quite limited, it does exist. Mr. Ausland himself has received some income from the sale of hay produced on the land the last few years, realizing \$2,500 in 1983 but less than \$500 in the only other 2 years that any income was realized. Due to the remoteness of the area, any thought of subdividing the property is totally unrealistic according to one of the experts.

Because the land does have some income-producing potential, we agree with the certifying officer that proration is necessary. We believe, however, that the more competent figures to use for proration are the tax assessment figures. Numbers used on real estate listing agreements are meant, at least in part, to make the property more attractive to sell. The values used in that agreement were not based on a legitimate appraisal of the property or any other official documents mentioned anywhere in the record. We do not believe the listing agreement to be reliable for the purpose of proration of expenses. The only official estimate of values is the tax assessment, and we believe that to be the best evidence available in this instance. Even though this assessment is considerably below the final sales price, there is no evidence in the record that the relative values of the land and the residence changed for any reason.

Because the tax assessment statement is the only official evidence of property value in the record, and that value is agreed with by two local real estate experts, we find that Mr. Ausland's reimbursement should be based on the values listed in the tax assessment. He should, therefore, be reimbursed for 99 percent of the costs he incurred in the sale of his residence.

  
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